

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

ALFREDO BELTRAN; DANIEL WANNER; and BETTER DAYS AHEAD OUTREACH INC.	:	
	:	
	:	
	:	Case No. 2:23-cv-04234
Plaintiffs,	:	
	:	JURY TRIAL DEMANDED
vs.	:	
	:	
BOROUGH OF POTTSTOWN,	:	
	:	
Defendant.	:	

MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs Alfredo Beltran, Daniel Wanner, and Better Days Ahead Outreach, Inc., by and through their attorneys, allege as follows:

1. Plaintiffs have filed a Complaint seeking declaratory and injunctive relief. *See* Dkt. 1.
2. Plaintiffs Alfredo Beltran and Daniel Wanner (together, “Unhoused Plaintiffs”) are unhoused Pottstown residents living in a homeless encampment on Borough of Pottstown-owned land next to the Schuylkill River Trail along College Drive, Pottstown, PA (the “College Drive Encampment”).
3. Plaintiff Better Days Ahead Outreach Inc. is a non-profit organization that provides aid to unhoused residents in Pottstown, including residents of the College Drive Encampment.
4. The Borough of Pottstown issued a notice declaring that it will close the College Drive Encampment on December 1, 2023. *See* Notice, Ex. G.
5. The notice indicates that College Drive Encampment residents can obtain shelter by dialing 211 or by going to the Beacon of Hope warming center, but these programs do not

have the capacity to house all of the College Drive Encampment residents. *See* Aff. of T. Niarhos at ¶¶ 7-8, 15-17, 22-23, Ex. C; Aff. of M. Boorse at ¶¶ 9-11, 19, 21, Ex. B.

6. Plaintiffs move this Court to enter a preliminary injunction enjoining Defendant Borough of Pottstown from closing the College Drive Encampment unless and until Defendant genuinely offers the College Drive Encampment residents with alternative shelter.

7. Plaintiffs are likely to succeed on the merits.

8. Without a preliminary injunction, Plaintiffs will suffer irreparable harm while this litigation is ongoing.

9. The preliminary injunction will maintain the status quo.

10. There is a substantial likelihood that Plaintiffs will ultimately be successful on the merits.

11. The balance of harms weighs in favor of Plaintiffs.

12. Enjoining Defendant will serve the public interest by protecting the best interests and constitutional rights of unhoused residents.

WHEREFORE, Plaintiffs request, pursuant to Federal Rule of Civil Procedure 65, that this Court enter a preliminary injunction order maintaining the status quo by enjoining Defendant from taking the actions described above.

Respectfully submitted,

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Date: Nov. 2, 2023

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INC.	:	
	:	Case No. 2:23-cv-04234
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	:	JURY TRIAL DEMANDED
vs.	:	
	:	
BOROUGH OF POTTSTOWN,	:	
	:	
Defendant.	:	

[PROPOSED] ORDER

AND NOW, this ____ day of _____, 2023, upon consideration of Plaintiffs’ Motion for a Preliminary Injunction, and it appearing to the Court that irreparable injury will result to Plaintiffs before the case can be heard on its merits if this preliminary injunction is not issued; that there is substantial likelihood that Plaintiffs will ultimately be successful on the merits; that the balance of harms favors Plaintiffs; and that the public interest weighs in favor of granting Plaintiffs’ requested injunction, the following Order is entered:

1. Defendant must refrain from taking any steps to close the homeless encampment or to require unhoused residents to relocate from Borough of Pottstown-owned land next to the Schuylkill River Trail along College Drive, Pottstown, PA, also identified as 150, 160, and 320 Keystone Boulevard, Pottstown, PA (the “College Drive Encampment”), unless and until Defendant Borough of Pottstown demonstrates to the Court that it has offered adequate alternative shelter to each of the College Drive Encampment residents beginning no later than December 1, 2023 and continuing through at least March 31, 2024, at no charge to the College Drive Encampment residents.

2. “Adequate alternative shelter” shall be defined as either 1) a guaranteed bed in an indoor homeless shelter facility, 2) a hotel/motel room, or 3) permanent indoor housing. For unhoused residents with disabilities, the homeless shelter facility, hotel/motel room, or permanent indoor housing must also be sufficient to reasonably accommodate the unhoused residents’ disabilities pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*
3. To demonstrate that it has offered adequate alternative shelter to each of the College Drive Encampment residents, Defendant must file a motion with this Court and present evidence of its offer of adequate alternative shelter to each of the residents. Plaintiffs may file an opposition to Defendant’s motion within fourteen (14) days. If necessary, the Court may hold a hearing and take testimony to resolve any factual disputes.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

I, Marielle Macher, Esq. hereby certify that a true and correct copy of the foregoing Motion for Preliminary Injunction was e-mailed to counsel for Defendant Borough of Pottstown at the following contact information:

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